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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DU, THUAN N

ART UNIT PAPER NUMBER

2116

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/066,324

Applicant(s)

BANDHOLE ET AL.

Examiner

Thuan N. Du

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16, 17 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 15, 18 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Drawings (dated 6/27/02), IDS (dated 11/2/04).
2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 31 and 32 have been renumbered as 26 and 27 respectively. Claims 1-27 are presented for examination.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 6 and 7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 6 recites the limitation "the database" in line 3. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 7 is also rejected for incorporating the above deficiency by dependency.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6, 8-14, 16, 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch et al. [Lynch] (U.S. Patent No. 5,515,524), Lynch (U.S. Patent No. 5,515,524) was submitted by applicant on 11/02/04.

10. Regarding claims 1, 16 and 19-20, Lynch teaches a system using a computer system to provide computing as a product to a user, where computing is supported through a dynamic computing environment, the system comprising:

an interface (display screen) to present components of a dynamic computing environment to the user [Fig. 11; col. 7, lines 5-7; col. 8, lines 35-37, 50-51; col. 12, lines 20-21; col. 16, lines 61-63];

an interface to accept user inputs for selection of components of a dynamic computing environment [col. 7, lines 5-7; col. 9, lines 10-11; col. 13, lines 12-13; col. 27, lines 58-62];

an interface to accept user inputs specifying a configuration of the dynamic computing environment [col. 7, lines 5-7; col. 13, lines 12-14; col. 27, lines 58-62];

a framework (system window) for creating the dynamic computing environment from allocable resources [Fig. 11; col. 30, lines 54-55]; and

Lynch does not explicitly teach an interface for the user to compute on the dynamic computing environment. However, Lynch teaches that the system including interface for the

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user to test the newly created or updated computing environment [col. 7, lines 5-10]. One or ordinary skill in the art would have recognized that the act of testing would obviously including the act of running and computing the computing environment.

11. Regarding claim 2, Lynch teaches that the components include hardware components wherein hardware components comprising computing devices or CPUs and storage devices [Fig. 2; col. 8, lines 16-19; col. 15, lines 9-12].

12. Regarding claim 3, Lynch teaches that the components include software components wherein software components comprising operating systems and application software [col. 8, lines 16-19; col. 15, lines 9-12].

13. Regarding claim 4, Lynch teaches that the system capable for configuring a various systems including network system [col. 8, lines 16-20]. Therefore, one of ordinary skill in the art would have recognized that the ProductLines taught by Lynch would obviously including all necessary network components.

14. Regarding claim 5, Lynch teaches that the system capable for configuring a various systems that has application to a wide rang of domains [col. 8, lines 16-17]. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Lynch to include virtual components in the ProductLines. The modification would increase the flexibility of the system by allowing the user could also select software licenses, network connection with specified bandwidth and IP addresses for configuring the needed computing environment.

15. Regarding claim 6, Lynch teaches that the user configuration is saved in a database [col. 26, lines 32-33].

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16. Regarding claim 8, it is a matter of design choice for the interfaces to be web-based interfaces.

17. Regarding claims 9-14, since they recite method of operating of the apparatus defined in the apparatus claims, they are rejected accordingly based on the rejection of the apparatus claims.

18. Regarding claims 21-25, Lynch teaches the system including a billing subsystem [col. 31, lines 51-58].

19. Regarding claim 26, all the claimed subject matter is already discussed in respect to claims 1, 9, 16 and 21 above.

20. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch et al. [Lynch] (U.S. Patent No. 5,515,524) and Kauffman (U.S. Patent No. 6,633,916).

21. Regarding claim 17, Lynch does not explicitly teach a first and second computing environment exist concurrently and shared the resources. However, one of ordinary skill in the art would have recognized that Lynch could obviously stores more than one models concurrently.

Kauffman teaches a system for handling virtual resources wherein the resources can be shared [col. 17, lines 45-46].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Lynch and Kauffman because it would reduce the cost of the system by utilizing shared resources.

Allowable Subject Matter

22. Claims 15, 18 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

23. Claim 7 is allowable if the outstanding lack of antecedent basis has been corrected and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (571) 272-3673. The examiner can normally be reached on Monday and Wednesday-Friday: 9:30 AM - 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670.

Central TC telephone number is (571) 272-2100.

The fax number for the organization is (703) 872-9306.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

A handwritten signature in black ink, appearing to read 'Thuan N. Du', with a stylized flourish at the end.

Thuan N. Du
December 23, 2004